

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:18-cv-00288-MR-WCM**

LAWRENCE WRIGHT, )  
                        )  
Plaintiff,         )  
                        )  
vs.                 )         **O R D E R**  
                        )  
MR. ORLANDO CASE and MRS. )  
ORLANDO CASE,      )  
                        )  
Defendants.        )  
                        )

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**THIS MATTER** is before the Court *sua sponte*.

The Plaintiff initiated this action against the Defendants on October 10, 2018. [Doc. 1]. Because the Plaintiff was granted leave to proceed in this case in forma pauperis [see Doc. 4], the United States Marshals Service was tasked with serving process upon the Defendants at the expense of the United States Government. On February 15, 2019, the Marshals returned the summonses unexecuted, noting that they were unable to locate the Defendants. [See Doc. 6].

On March 4, 2019, the Court entered an Order directing the Plaintiff to show cause in writing within fourteen (14) days for his failure to effect service

on the Defendants.<sup>1</sup> [Doc. 7]. The Plaintiff was specifically warned that failure to respond to the Court's Order would result in the dismissal of this action. [Id.]. The Plaintiff never responded to the Court's Order.

Four days after the Court entered this Order, the Clerk's Office issued a new Summons for the Defendant Orlando Case. [Doc. 8]. On May 24, 2019, the United States Marshals Service returned the Summons unexecuted. [Doc. 9]. The Process Receipt and Return indicates that the Marshals Service was unable to access the building at the address provided and that employees of a barber shop located on the premises indicated that they did not know the Defendant. [Id.].

Rule 4(m) of the Federal Rules of Civil Procedure provides, in pertinent part, as follows:

If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

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<sup>1</sup> While the United States Marshals Service was tasked with serving process, it remains the Plaintiff's responsibility to ensure that service of process is actually made.

Here, the Plaintiff has failed to show good cause for the failure to serve the Defendants named in this action. Accordingly, the Court will dismiss this case without prejudice.

**IT IS, THEREFORE, ORDERED** this action is hereby **DISMISSED WITHOUT PREJUDICE.**

**IT IS SO ORDERED.**

Signed: June 4, 2019



Martin Reidinger  
United States District Judge

